

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 95-0311 CS**

**Controlled Substance Excise Tax**

**For Tax Period: 03/08/95**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

**I. Controlled Substance Excise Tax – Imposition**

**Authority:** IC 6-7-3-5; IC 6-7-3-6; IC 6-8.1-5-1

Taxpayer protests the imposition of the controlled substance excise tax.

**STATEMENT OF FACTS**

Taxpayer was arrested in January, 1995 for possession of marijuana by the Shelby County Sheriff's Department. The Department assessed the Controlled Substance Excise Tax on March 8, 1995. The assessment was based on 21.40 grams of marijuana. Taxpayer protested the assessment.

Taxpayer was previously represented by an attorney who declined to represent the taxpayer in this matter. The Department attempted to notify the taxpayer of the date and time of the administrative hearing. The Department used the best information available to contact the taxpayer. Taxpayer failed to appear at the administrative hearing.

Additional relevant facts will be provided below, as necessary.

**I. Controlled Substance Excise Tax – Imposition**

### **DISCUSSION**

Indiana Code Section 6-7-3-5 states:

The controlled substance excise tax is imposed on controlled substances that are:

- (1) delivered,
- (2) possessed, or
- (3) manufactured;

in Indiana in violation of IC 35-48-4 or 21 U.S.C. 841 through 21 U.S.C. 852.

Pursuant to Indiana Code Section 6-7-3-6:

"The amount of the controlled substance excise tax is determined by:

- (1) the weight of the controlled substance. . ."

Taxpayer was arrested for possession of 21.40 grams of marijuana. The Department based its assessment on that weight.

Pursuant to IC 6-8.1-5-1(b), "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made."

Taxpayer protested the assessment but failed to appear at the administrative hearing and present evidence that the assessment was invalid. As such, the taxpayer failed to meet his burden.

### **FINDING**

Taxpayer's protest is denied.